

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RED TREE INVESTMENTS, LLC,

Plaintiff,

-against-

PETRÓLEOS DE VENEZUELA, S.A. and
PDVSA PETRÓLEO, S.A.,

Defendants.

Docket Nos.: 1:19-cv-002519;
1:19-cv-002523

**DECLARATION OF
MATTHEW A. DUCHARME
IN OPPOSITION TO
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT IN
LIEU OF COMPLAINT**

Matthew A. Ducharme declares under penalty of perjury pursuant to 28 U.S.C. §1782 as follows:

1. I am a senior associate of Hogan Lovells US LLP, counsel for defendants Petróleos de Venezuela, S.A. and PDVSA Petróleo, S.A. (together, “Defendants”) in the above-captioned actions. I respectfully submit this declaration in opposition to plaintiff Red Tree Investments, LLC’s (“Red Tree”) motion for summary judgment in lieu of complaint.

2. On June 1, 2021, this Court granted Defendants’ Rule 56(d) motion, allowing Defendants one month to complete discovery, which was subsequently extended twice: first, to July 8, 2021, by order dated June 9, 2021; and second, by order dated July 7, 2021, to July 15, 2021 for domestic discovery and August 2, 2021 for foreign discovery.

3. Pursuant to the June 1 Order, Defendants served document subpoenas on third-parties Deutsche Bank Trust Company Americas (“Deutsche Bank”), Wells Fargo Securities, LLC (“Wells Fargo”), General Electric Capital Corporation (“GE Capital”) and GE EFS Capital Financing Inc. (“GE EFS”) (together, “GE”). Defendants received document productions from Wells Fargo on July 7, 2021; Deutsche Bank on July 8, 2021; and GE on August 9, 2021.

4. Annexed hereto as **Exhibit A** is a true and correct image of a document produced by GE, bearing Bates numbers GE_00014091-00014094. GE agreed to remove the “confidential” designation of this document to avoid the need for filing under seal.¹

5. Annexed hereto as **Exhibit B** is a true and correct image of a document produced by GE, bearing Bates numbers GE_000014101-000014104. GE agreed to remove the “confidential” designation of this document to avoid the need for filing under seal.

6. Annexed hereto as **Exhibit C** is a true and correct image of a document produced by GE, bearing Bates numbers GE_000014108-000014118. GE agreed to remove the “confidential” designation of this document to avoid the need for filing under seal.

7. Annexed hereto as **Exhibit D** is a true and correct image of a document produced by GE, bearing Bates numbers GE_000014411-000014414. GE agreed to remove the “confidential” designation of this document to avoid the need for filing under seal.

8. Annexed hereto as **Exhibit E** is a true and correct image of a document produced by GE, bearing Bates numbers GE_000014352-000014354. GE agreed to remove the “confidential” designation of this document to avoid the need for filing under seal.

9. Annexed hereto as **Exhibit F** are true and correct images of documents produced by GE, bearing Bates numbers GE_000014462-000014470. GE agreed to remove the “confidential” designation of this document to avoid the need for filing under seal.

¹ At the request of GE, and in accordance with the Federal Rules and this Court’s Individual Rule 4.A, all GE documents have been redacted to conceal sensitive information and information requiring caution. Specifically, the following information was redacted: (1) bank account numbers (except for the last four digits), (2) Federal Reference Numbers (except for the last four digits), and (3) numbered codes following GE email addresses, which GE explained could potentially be used inappropriately on GE’s systems.

10. Annexed hereto as **Exhibit G** is a true and correct image of a document produced by GE, bearing Bates number GE_000014140. GE agreed to remove the “confidential” designation of this document to avoid the need for filing under seal.

11. Annexed hereto as **Exhibit H** is a true and correct image of a document produced by GE, bearing Bates numbers GE_000014162-000014163. GE agreed to remove the “confidential” designation of this document to avoid the need for filing under seal.

12. On July 9, 2021, this Court granted Defendants’ motion to issue letters of request for international judicial assistance to obtain discovery from two foreign third parties: Zuma Bank Corporation (“Zuma Bank”) of Dominica and SACE S.p.A. (“SACE”) of Italy. The letters were signed and issued by this Court on July 14, 2021. Defendants then promptly caused the letters of request to be sent to the appropriate central authorities in Dominica and Italy. Defendants received a document production from Zuma Bank on July 28, 2021. Defendants have not received documents from SACE.

13. Annexed hereto as **Exhibit I** is a true and correct image of a declaration sworn by Gabriel Sanz, the Chief Executive Officer (“CEO”) of Zuma Bank, on July 25, 2021, regarding the documents produced by Zuma Bank.

14. Annexed hereto as **Exhibit J** is a true and correct image of a declaration sworn by Gabriel Sanz, the CEO of Zuma Bank, on August 11, 2021, regarding two documents produced by Zuma Bank, the first bearing Bates number ZUMA_0000158, and the second bearing Bates numbers ZUMA_0000147-0000157.

15. Annexed hereto as **Exhibit K** is a true and correct image of a document produced by Zuma Bank, bearing Bates numbers ZUMA_0000257-0000285.

16. Annexed hereto as **Exhibit L** is a certified translation of a document produced by Zuma Bank, bearing Bates numbers ZUMA_0000147-0000157, along with a true and correct image of the original document.

17. On August 12, 2021, Defendants conducted a deposition of Daniel Wallitt, a former Managing Director at GE EFS.

18. Annexed hereto as **Exhibit M** are true and correct images of excerpts of the official transcript of the August 12 deposition of Daniel Wallitt. These pages have not been designated confidential by GE.

Dated: August 16, 2021

/s/ Matthew A. Ducharme

Matthew A. Ducharme
Hogan Lovells US LLP
390 Madison Avenue
New York, New York 10017
(212) 918-3000
matt.ducharme@hoganlovells.com

*Counsel for Defendants Petróleos
de Venezuela, S.A. and PDVSA
Petróleo, S.A*